

# **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Margaret Chea Wu, Economic Development Manager/ (954) 797-2087

**SUBJECT:** Resolution – Boys Club of Broward County Sublease Agreement and School Board of Broward County Lease Agreement regarding the site known as McFatter Technical Center located at 6500 Nova Drive.

**AFFECTED DISTRICT:** Townwide

**TITLE OF AGENDA ITEM:**

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SUBLEASE AGREEMENT BETWEEN THE TOWN OF DAVIE AND BOYS CLUB OF BROWARD COUNTY, INC. DOING BUSINESS AS BOYS & GIRLS CLUB OF BROWARD COUNTY, AND A LEASE AGREEMENT WITH THE SCHOOL BOARD OF BROWARD COUNTY FOR A SITE LOCATED AT MCFATTER TECHNICAL CENTER; AND PROVIDING AN EFFECTIVE DATE.

**REPORT IN BRIEF:**

This request is to allow the Town of Davie, Florida to enter into lease agreement with the School Board of Broward County and sublease agreement with the Boys & Girls Club of Broward County. This will be the third Davie Boys & Girls Club established in the Town. The new Admirals Boys and Girls Club Marine Academy will serve more than 1,000 youths per year. The program will partner with the Marine Industries Association, the Broward County School Board, McFatter Technical Center and the many local and National Marine Industry leaders who will ultimately serve as placement and training sources for an ongoing pool of qualified and motivated employees. The program will focus on career development in the Marine Industry as well as the traditional programs offered thru the Boys & Girls Club of Broward County.

**PREVIOUS ACTIONS:** None

**FISCAL IMPACT:**

Has request been budgeted?        yes

    If yes, expected cost: \$1.00

**Attachment(s):** Lease Agreement, Sublease Agreement, Subject Site

RESOLUTION NO. R \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SUBLEASE AGREEMENT BETWEEN THE TOWN OF DAVIE AND BOYS CLUB OF BROWARD COUNTY, INC. DOING BUSINESS AS BOYS & GIRLS CLUB OF BROWARD COUNTY, AND A LEASE AGREEMENT WITH THE SCHOOL BOARD OF BROWARD COUNTY FOR A SITE LOCATED AT MCFATTER TECHNICAL CENTER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is the policy of the Town of Davie to develop, operate and maintain parks and community recreational facilities within the Town; and

WHEREAS, the Town is desirous of utilizing a portion of the school grounds of McFatter Technical Center which would be subleased, in whole or in part, to a tax exempt organization to be used for community, cultural, educational and recreational purposes; and

WHEREAS, in order to meet the goals stated above, the Town would enter into a Lease Agreement with The School Board of Broward County, Florida to lease 17,940± acres at McFatter Technical Center; and

WHEREAS, to facilitate the construction and operation of a community, cultural, educational and recreational facility, the Town wishes to enter into a Sublease Agreement with Boys Club of Broward County, Inc. doing business as Boys & Girls Club of Broward County, to sublease 17,940± acres at McFatter Technical Center, a copy of which is attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the Sublease Agreement between the Town of Davie, Florida and Boys Club of Broward County, Inc. doing business as Boys & Girls Club of Broward County, a copy of which is attached hereto as Exhibit "A", is hereby approved.

SECTION 2. The Mayor is hereby authorized to execute the agreement on behalf of the Town.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2003,

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2003.

## **SUBLEASE AGREEMENT**

This Sublease Agreement made and entered into this \_\_\_\_ day of \_\_\_\_, 2003, by and between the TOWN OF DAVIE, a Florida municipal corporation (hereinafter referred to as "Town") and THE BOYS CLUB OF BROWARD COUNTY, INC. d/b/a THE BOYS AND GIRLS CLUB OF BROWARD COUNTY, organized as a not-for-profit corporation under the laws of the State of Florida, a Florida corporation (hereinafter referred to as "Provider").

### **WITNESSETH:**

WHEREAS, the Town has entered into a forty (40) year lease agreement with the School Board of Broward County, Florida, relating to the lease by the Town of certain real property located in Davie, Florida, as more particularly described in the Lease Agreement attached hereto as Exhibit "A" (the Lease"); and

WHEREAS, the Lease specifically allows for a sublease by the Town of certain designated areas within the leased property to the Boys & Girls Club of Broward County, which is a tax exempt organization under 501(c) of the Internal Revenue Code; and

WHEREAS, the Provider is agreeable to taking all necessary actions to design, construct and equip an approximate 17,940± square feet Boys and Girls Club facility on the subleased lands, said lands being more particularly described in Exhibit "B" attached hereto (the "Subleased Area"); and

WHEREAS, the Town is desirous of utilizing the services to be provided by the Provider as Provider of community, cultural, educational, and recreational facilities and services; and

WHEREAS, the Town and Provider believe that such an arrangement in the form of this Sublease Agreement will be of mutual benefit to all parties and will fulfill a great need in the McFatter Technical Center area of the Town and that cooperation between the parties hereto will result in great public benefit to the citizens of the Town and will serve a valid public purpose.

NOW, THEREFORE, for and in consideration of the promises and benefits flowing through each party, the parties hereto do mutually agree as follows:

1. **Findings.** The above recitals are true and correct and are incorporated herein.
2. **Sublease to Provider.** The Town does hereby sublease to the Provider a portion of the leased properties under the Lease, as more particularly described on Exhibit "B" attached hereto, designated "Lease Area". Unless extended or terminated in accordance with the provisions hereof, the term of this Sublease is forty (40) years from the date of the execution of the Lease, said Lease being executed on the \_\_\_\_ day of \_\_\_\_\_. The Subleased Area is sublet at a yearly rental of one dollar (\$1.00) per year payable to the Town upon execution of this Sublease and thereafter on the 2nd day of February of each year of the Sublease Agreement. It is specifically understood and agreed that by mutual agreement of the parties hereto, the term of this Sublease may be shortened or extended, subject to the provisions of Sections 5 and 6, as set forth below.
3. **Purpose of Sublease.** The Subleased Area is to be used strictly for educational, cultural, and recreational purposes as a Boy and Girls Club facility to be operated and maintained by the Provider. It is acknowledged by the parties that during the term of this Sublease, the Sublease Area shall be under the sole and exclusive custody and control of the Provider and the programs of the Provider shall always take priority in determining the use of the Subleased Area. The Provider will, however,

cooperate with the Town's Parks and Recreation Department in providing for mutually beneficial programs for the Town's residents at the Subleased Area.

4. **Cooperation with School Board.** Provider acknowledges that the Subleased Area is presently leased to the Town by the School Board and agrees that use of said Subleased Area by the Provider shall be limited and restricted so as not to conflict in any way with the use by the Board of the adjacent areas in accordance with the terms of the Lease Agreement attached hereto as Exhibit "A". Provider further agrees not to take any actions which would constitute a breach of the Lease or would cause the Town to breach the terms of the Lease. All actions of the Provider shall be consistent with the Town's obligation under the Lease.

Notwithstanding the contents of paragraphs 3 and 4 of this Sublease Agreement, provider acknowledges and agrees that this Sublease Agreement shall be subordinate and inferior to the terms of that one certain Lease Agreement entered into between the School Board of Broward County, Florida and the Town of Davie regarding the subject real property, including the provisions contained in the Leased Agreement regarding the right of cancellation and termination by the School Board of Broward County of the subject Lease and the right of the SBBC with regard to its use of the subject premises.

5. **Breach or Default by Provider, Opportunity to Cure.**

Town agrees:

(a) That should the Provider breach this Sublease Agreement or be in default of its terms, then prior to the Town claiming any right to relief as a result of said breach or default, Town shall give written notice to the Provider of a specific breach or default, and, thereafter, the Provider shall have thirty (30) days within which to cure the breach or default or such additional time to cure as may be approved by the Town Council, which extensions will not be unreasonably withheld so long as Provider is making a good faith effort to cure such defect and breach;

(b) In the event Provider is unable to cure any such breach or default after the cure period, including any extensions thereof, then the Town shall have the right to terminate this Sublease Agreement upon thirty (30) days written notice to the Provider and upon such termination, Provider shall vacate the Subleased Area and the buildings and improvements thereon shall automatically revert back to the Town subject only to the terms of the Lease Agreement between the Town and the School Board. In addition, the Town may, at its sole option, forthwith cancel and terminate this Sublease and it may enter the Subleased Area and improvements thereon as the agent of the Provider, by due legal process, without being liable in any way therefor, and re-let the premises with or without any furniture that may be therein, as the agent of the Provider, at such price and upon such terms and for such duration of time as the Town may determine, and receive the rent therefor or the Town, at its option can use the Subleased Area and improvements thereon for any other valid public purpose as the Town Council may determine. In the event of any such termination of the Sublease Agreement, the Town shall have no obligation or responsibility to reimburse Provider for any financial loss and Provider absolves and holds harmless the Town from any such obligation, responsibility or liability with respect to same; provided however, that at the time the Sublease is terminated or expires, Provider shall have the right to remove all equipment and furnishings exclusively owned by the Provider.

6. **Expiration of Sublease.** At the expiration of the term of this Sublease Agreement, unless such term is extended by the parties pursuant to a written amendment hereto and a written amendment extending the Lease, approved by the School Board, Provider will voluntarily and peacefully yield up to the Town the Subleased Area and all buildings, improvements, machinery, equipment, appurtenances and appliances placed or installed on the Subleased Area and the same shall automatically revert to the Town, subject only to the terms of the Lease Agreement; provided, however, that at the time the Sublease is terminated or expires, Provider shall have the right to remove all equipment and furnishings exclusively owned by the Provider. In the event the Town receives payment

for the building improvements on the Subleased Area, then the payment shall be given to the Provider as they have fully funded the cost of construction of the building. Should the Town subsequently fund any capital improvements, they would receive their prorated share.

7. **Prohibition on Subletting and Assignment by Provider.** Provider shall not have the right to sublet all or any part of the Subleased Area or the facilities thereon, or to assign all or any part of the Subleased Area or the facilities thereon, without the express consent of the Town Council.

8. **Taxes and Utilities.** Provider hereby agrees to be responsible for and shall timely pay for all utilities and all applicable taxes in a timely manner in connection with its use of the Subleased Area throughout the term of this Sublease. The parties recognize that the Subleased Area is exempt from property taxes in accordance with Florida law and Town and Provider shall make all necessary filings to maintain such exemptions. Provider shall maintain such property tax exemptions by continuing to use the Subleased Area to serve a “valid public purpose” within the meaning of Chapter 196, Florida Statutes.

9. **Provider’s Acceptance of Subleased Area; Provider’s Obligation to Construct Project and to Repair and Maintain Same.** The Provider hereby accepts the Subleased Area and any improvements currently thereon in their “as is” condition at the beginning of this Sublease. Town makes no representations or warranties to Provider as to the condition of the Subleased Area or as to their habitability or fitness for a particular use or purpose and Provider assumes all risk with respect to same. Provider agrees to maintain the Subleased Area in a safe and sanitary and clean condition throughout the term of this Sublease. Provider agrees to improve the Subleased Area and to construct thereon a Boys and Girls Club facility of approximately 17,940± square feet in size. Provider agrees to make said improvements in accordance with applicable Town codes and to meet all applicable permit and inspection requirements. Provider will put forth every effort in good faith to make the necessary improvements to the Subleased Area in order to have the Project open to the public on an expedited basis but in no event later than 18 months from the issuance date by the Town of the valid building permit for the Project, unless such time period is extended by the Town Council. Any and all construction related activity shall be required to utilize 6500 Nova Drive for access to the Subleased Area. Any and all contractors utilized by the Provider shall be required to have all its employees, subcontractors or agents who will be entering onto the School Board property as a result of this Sublease to wear, while on School Board property, a photo identification badge issued by the School Board in accordance with School Board standardized operation procedures. Provider shall fully comply with the provisions of paragraph 7(a) of the Lease. Failure of Provider to meet its obligations under this Section 9 shall constitute a material default of this Sublease.

Provider agrees to keep the Subleased Area and grounds and facilities thereon clean, sanitary and free from trash and debris, and also the grounds shall be neatly landscaped and mowed to prevent unsightly accumulation of weeds and other vegetation.

10. **Liability Insurance.** The Provider shall maintain tenant’s liability and property and fire insurance covering the Subleased Area and its improvements at least in the amount of the replacement value of the building and improvements of the Subleased Area. The Provider shall also maintain general liability insurance in the amount of One Million Dollars (\$1,000,000.00). Said insurance policies shall name the Town and the School Board of Broward County, Florida, as additional insureds and the annual premiums shall be paid for by Provider in a timely manner.

Certificates of insurance shall be forwarded to the Town’s Risk Manager and to the School Board. Provider shall be obligated to maintain such insurance coverages at all times throughout the term of this Sublease. Provider shall not allow said policies to lapse during the term of this Sublease. The Town and the School Board shall be given thirty (30) days written notice of any cancellation or modification

of such policies. Failure of Provider to maintain such insurance policies shall constitute a material default of this Sublease.

11. **Surety Bonds.** In addition to the insurance as detailed in paragraph 10 above, with respect to any construction projects undertaken on the Subleased Area, the Provider shall require the contractor to furnish a surety bond which guarantees the completion of any construction project undertaken on the Subleased Area and the performance of the work necessary to complete the project as well as for payment of all suppliers, materialmen, laborers or subcontractors employed to provide services to complete the project. Provider agrees to deliver a copy of the surety bond to the Town no later than thirty (30) days prior to the commencement of construction.

12. **Personal Property.** All personal property placed, moved or displayed in the Subleased Area shall be at the risk of the Provider and the respective owner thereof, and the Town shall not be responsible or liable for any damage to said personal property, arising from an Act of God or from the bursting or leaking of water pipes, or from any act of negligence of Provider or invitee or occupants of the Subleased Area or of any other person whomsoever, or because of any act of theft or vandalism by third parties.

13. **Prohibited Use of Subleased Area.** The Provider hereby further covenants and agrees with the Town that the Subleased Area, the Project and any other improvements thereon, shall be used only for the proper, legitimate and lawful purposes as set forth in Section 3 hereof, and that the Provider will not use or cause to be used or permit any person or party to use in any manner whatsoever, the Subleased Area, the Project or any other improvement thereon or any portion thereof, for any use or purpose in contravention of Section 3 hereof, or in contravention of the laws, ordinance or regulations of the United States or the State of Florida, or the Town of Davie or any other lawful authority having jurisdiction thereover.

14. **Town's Right to Inspect Premises.** The Town, acting through the Town Administrator or his designee, shall have the right to enter the Subleased Area and improvements thereon during all reasonable hours, to examine the same and to make such reports to the Town Council and Provider on the condition of the Subleased Area and to require Provider to make such repairs, or alterations as may be deemed necessary in order to ensure the public's safety and preservation thereof.

15. **No Waiver of Rights.** The rights of the Town under this Sublease Agreement shall be cumulative, and failure on the part of the Town to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the Town's rights.

16. **Notice.** It is understood and agreed between the parties hereto that written notice addressed to Provider's President or Executive Director mailed by certified mail, return receipt requested, or hand-delivered to the Provider at 1401 N.E. 26<sup>th</sup> Street, Ft. Lauderdale, Florida 33305, shall constitute sufficient notice to the Provider and written notice mailed by certified mail, return receipt requested, or hand-delivered to the Office of the Town Administrator, 6591 Orange Drive, Davie, Florida 33314, with a copy to the Office of the Town Attorney, 6591 Orange Drive, Davie, Florida 33314, shall constitute sufficient notice to the Town, to comply with the terms of this Sublease Agreement.

17. **Legal Fees of Prevailing Party.** In the event it shall be necessary for either of the parties to bring legal action for collection in a Court of Law or otherwise retain legal counsel to enforce this Sublease Agreement or any provision hereof or any rights established hereunder, including, but not limited to the enforcement of Provider's obligations hereunder, right to occupancy and possession and to enforce the Provider's obligation to vacate upon termination or default, then the prevailing party in any

such action shall be entitled to reimbursement from the non-prevailing party of their reasonable attorney's fees and court costs incurred in connection therewith.

18. **Compliance with Applicable Laws.** The Provider shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of the Federal, State and City Government and of any and all their departments and bureaus applicable to the Subleased Area and any improvements thereon, except as otherwise limited herein. Provider shall also be and remain in compliance with all rules, regulations and ordinances of the Town of Davie and any other governmental entity or agency established for protection against or prevention of fires.

19. **Indemnity and Hold Harmless.** The Provider shall indemnify, save harmless and defend the Town, its officers, employees and agents from and against all claims, suits, actions, damages or causes of action arising during the term of this Sublease Agreement for any personal injury, loss of life or damage to property sustained by reason or as a result of the use the Subleased Area and improvements thereon for which this Sublease Agreement is entered into or its agents, employees, invitees, and all other persons, and from and against any orders, judgments or decrees, which may be entered thereto, and from and against all costs, attorney's fees, expenses and liabilities incurred in or by reason of the defense of any such claim, suit or action, and the investigation thereof. Nothing in this Sublease shall be deemed to affect or waive the rights, privileges and immunities of the Town, or the Provider, as are set forth in Florida Statutes, including Section 768.28.

20. **Water Damage.** It is expressly agreed and understood by and between the parties to this Agreement, that the Town shall not be liable for any damage or injury by water, which may be sustained by the Provider or any other person or for any other damage or injury resulting from the carelessness, negligence, or improper conduct on the part of the Provider or its agents, or employees, or by reason of the breakage, leakage, or obstruction of the water, sewer or soil pipes, or other leakage in or about the Subleased Area and buildings and improvements thereon.

21. **Abandonment of Premises.** If the Provider shall abandon or vacate the Subleased Area before the end of the term of this Sublease, or shall be in default without curing same for more than 30 days after notice of such default, unless said cure period is extended by the Town, then the Town may, at its sole option, forthwith cancel and terminate this Sublease or it may enter the Subleased Area and improvements thereon as the agent of the Provider, by due legal process, without being liable in any way therefor, and re-let the premises with or without any furniture that may be therein, as the agent of the Provider, at such price and upon such terms and for such duration of time as the Town may determine, and receive the rent therefor or the Town, at its option can use the Subleased Area and improvements for any other valid public purpose as the Town Council may determine.

22. **Successors and Assigns.** This Sublease shall bind the Town and its assigns or successors, and the Provider and its administrators, legal representatives, or successors, if any, as the case may be.

23. **Entire Agreement.** This Sublease Agreement, together with the Exhibits hereto, shall constitute the entire agreement between the parties.

24. **Florida Law Governs.** This Sublease Agreement shall be enforced and interpreted under the laws of the State of Florida. Venue for all legal actions shall be in Broward County. Both parties waive their rights to a jury trial.

25. **Captions/Counterparts.** The captions contained in this Sublease Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision hereof. This Sublease may be executed in one or more counterparts, each of which when executed by a party hereto shall constitute an original.

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Sublease Agreement on the day and year first above written.

Attest:

**TOWN OF DAVIE**, a municipal  
corporation of the State of Florida

\_\_\_\_\_

Russell Muniz, Town Clerk \_\_\_\_\_ By \_\_\_\_\_  
\_\_\_\_\_ Tom Truex, Mayor

Witnesses:

**BOYS CLUB OF BROWARD COUNTY,  
INC. d/b/a The Boys and Girls Club of  
Broward County**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
(Print Name & Title)

**ATTEST:**

By \_\_\_\_\_

\_\_\_\_\_  
(Print Name & Title)

## **Sublease Exhibit - A**

### **LEASE AGREEMENT**

THIS AGREEMENT, made and entered into by and between THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, a body corporate existing under the laws of Florida, hereinafter referred to as the "SBBC", and the TOWN OF DAVIE, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter referred to as the "TOWN".

#### **WITNESSETH:**

WHEREAS, the SBBC is the controlling body of the Public Schools of Broward County, Florida and does own one school site designated as **McFatter Technical Center** located in Broward County, Florida, hereinafter referred to as "school grounds"; and

WHEREAS, it is the purpose and policy of the TOWN to develop, operate and maintain parks and community recreational facilities; and

WHEREAS, the SBBC and the TOWN believe that such an arrangement will be of mutual benefit to all parties and will fill a great need in that area of the community and that cooperation between the parties hereto will result in great benefit to the citizens of the TOWN and the County;

NOW, THEREFORE, for and in consideration of the premises and benefits flowing to each party, the parties hereto do mutually agree as follows:

1. The above recitals are true and correct and are incorporated herein.
2. The SBBC does hereby lease to the TOWN the property described in Exhibit "A" which is attached and made a part hereof as prepared by The School Board of Broward County, Florida, under the terms and conditions hereinafter set forth.
3. The term for which the TOWN leases said premises is 40 years from the date of the execution of this lease agreement by the parties, at a yearly rental of One Dollar (\$1.00) per year payable to the SBBC on the yearly anniversary of the lease agreement. It is specifically understood and agreed that by mutual agreement of the parties hereto, the term of this lease may be shortened or extended, subject to the provisions of Paragraph 8 hereinafter set forth.
4. The SBBC and TOWN specifically agree and understand that the TOWN may only sublease the leased property as identified in Exhibit "A" for the purpose of the construction and operation of a facility to be used for the benefit of The Boys Club, Inc. dba Boys and Girls Club of Broward County, a tax exempt organization under Section 501(c) of the Internal Revenue Code.
5. The property herein leased is to be used strictly for recreational purposes available to the citizens of the area except for the area that may be sublet under Paragraph 6. The facilities herein leased are to be used strictly as stated herein and no other use shall be permitted unless specifically approved by the SBBC in writing.
6. (a) The use of said premises by the TOWN shall be limited and restricted so as not to conflict in any way with the use of said property by the SBBC in its Public Education Program and the use of said property by the TOWN shall be at all times in compliance with the laws of The State of Florida concerning the use of school property and the location of any and all improvements to be placed on the leased premises, including but not limited to baseball diamonds,

buildings, lights, etc. (other than as shown on Exhibit "A" attached hereto) shall first be approved in writing by the Superintendent's Designee, it being intended that the SBBC shall have absolute control over the location of any facilities before they are placed on the leased premises. Any facilities placed on said leased premise without the prior written approval of the Superintendent's Designee as to location shall immediately be removed or relocated within ten (10) days of written demand by the Superintendent's Designee.

(b) Any and all construction related activity shall be required to utilize 6500 Nova Drive for access to the leased area. Any and all contractors utilized by the Town or the Sublessee shall be required to have all its employees, sub-contractors or agents who will be entering onto SBBC property as a result of this lease to wear, while on SBBC property, a photo identification badge issued by the SBBC in accordance with SBBC standard operating procedures.

7. (a) The TOWN and SBBC agree that this lease may be canceled or terminated by either party upon ninety (90) days written notice to the other party hereto for the area which may be sublet under Paragraph 6.

(b) All other areas leased to the TOWN shall be subject to the power and authority of the SBBC upon 90 days written notice to the TOWN to cancel this lease as to any as to any designated area which the SBBC determines is needed exclusively for school building purposes or for any other school purposes. The SBBC's determination in this regard shall be conclusively binding upon all parties.

(c) The TOWN shall likewise have the unqualified right of cancellation of this lease, in whole or as to any designated portion or area of property subject hereto upon 90 days written notice of cancellation to the SBBC.

8. (a) It is specifically agreed between the parties hereto that at any time the SBBC desires to cancel and/or terminate this entire lease or a part thereof, and it shall have the conclusive right to do so, provided, however, that in the event the SBBC so elects, the TOWN shall be given 90 days written notice prior thereto and in the event of cancellation, the SBBC shall reimburse the TOWN for the then remaining value of the TOWN installed facilities located on the premises to be terminated, not including sod, landscaping, sand or earth. In the event the parties hereto cannot mutually agree on said value, same shall be appraised by three (3) appraisers; one selected by the SBBC; one selected by the TOWN; and the third appraiser selected by the two appraisers appointed.

In the event of such appraisal of the value, the average of the three (3) appraisers shall be the amount the SBBC shall pay, in the event it desires to cancel and/or terminate this lease as aforesaid. It is further agreed that the SBBC shall be obligated to pay the fee of the appraiser selected by the SBBC; the TOWN shall be obligated to pay the fee of the appraiser selected by the TOWN; and the TOWN and SBBC shall each pay 50% of the fee of the appraiser selected by the two aforementioned appraisers.

(b) If the TOWN shall properly exercise its right to cancel this lease agreement as to the whole or part of the leased premises, the TOWN shall have the right, subject to the SBBC's purchase option described below, to remove any and all such fixtures and improvements to the property as the TOWN had placed thereupon, except that the TOWN shall not remove sod, landscaping sand or earth placed upon the premises (except as incidental to removal or other fixtures and/or improvements) and the TOWN shall, in the case of removal of fixtures and improvements, reestablish the normal grade of the premises to the condition which the same was found upon the Town's first entering the premises hereunder. If, upon cancellation by the TOWN, the SBBC wishes to purchase the TOWN installed improvements, then the TOWN shall sell the same to the SBBC at a mutually agreed price. However, if the TOWN and SBBC cannot mutually agree upon such a price (the value of the property to be purchased) then the appraisal method, described above in Section 8a hereof, shall be used to arrive at a binding price.

9. It shall be the responsibility of the TOWN to keep the grounds and facilities herein leased, clean, sanitary and free from trash and debris, and also the grounds shall be mowed to prevent unsightly accumulation of weeds and other vegetation. Upon failure of the TOWN to comply with the provisions of this section, the SBBC shall give written notice to the TOWN of such failure to comply, by Certified Mail, Return Receipt Requested. If, after a period of five (5) days of receipt, the TOWN has not commenced to complete the clearing and/or mowing of said area, the SBBC shall have the right to enter upon the premises, remove trash and debris from the area, and/or mow the area and charge the TOWN the cost to the SBBC for such services. Billing for trash and debris removal and/or mowing shall be on a per mowing basis and shall be due and payable within fifteen (15) days after receipt by the TOWN.

Notwithstanding any of the provisions of the foregoing paragraph, the parties further agree that the TOWN, in addition to the above, will clean up the premises after each and every event it sponsors, and the SBBC will be responsible to clean up after each and every event it sponsors.

10. The SBBC shall be allowed to use the recreational facilities during the school day when school is in operation and at other times when school activities are scheduled. It is intended that the town recreation department and the school work together coordinating a schedule of activities on the leased area to the maximum benefit of the community and its citizens.

11. The upkeep and maintenance of all areas herein leased, including but not limited to any buildings constructed, parking areas and recreational areas, to the TOWN shall be borne by the TOWN and the TOWN agrees at all times to keep the areas herein leased and the equipment placed on said areas properly maintained.

12. a) The TOWN agrees to relieve the SBBC from any and all liability whatsoever arising out of any injuries or accidents that may or might occur as a result of the negligence of the TOWN in failing to supply proper supervision of the areas herein leased while so used by the TOWN, and the TOWN further agrees to hold SBBC harmless, indemnify and free from all responsibility as a result of any negligence of the TOWN in failing to properly maintain the facilities and equipment on the leased areas.

The SBBC agrees to relieve the TOWN from any and all liability whatsoever arising out of any injuries or accidents that may or might occur as a result of the negligence of the SBBC in failing to supply proper supervision of the areas herein leased while so used by the SBBC. It is further agreed and understood between the parties hereto that neither party to this agreement waives any of its immunity in these premises as may be given to either party by law.

b) The TOWN shall require any Sublessee to maintain One Million Dollars (\$1,000,000) of general liability insurance throughout the term of this agreement. Said insurance will name The School Board of Broward County, Florida as an Additional Insured for any and all liability arising from the negligence of the sublessee's employees or agents. SBBC shall be given thirty (30) days written notice of any cancellation or modification of any such policy.

c) In addition to the insurance as detailed in item b above, any construction projects undertaken on the subleased area the TOWN shall require a contractor to furnish a surety bond which guarantees the completion of any construction project undertaken on the subleased area and the performance of the work necessary to complete the project as well as full payment of all suppliers, materialmen, labors or subcontractors employed to provide services to complete the project. The TOWN agrees to deliver a copy of the surety bond to the SBBC fifteen (15) days prior to the commencement of construction.

13. At the expiration of this lease (40 years), in the event the same is not canceled by the SBBC or the TOWN prior thereto, all permanent facilities, such as buildings, parking areas, permanent recreation facilities, etc., shall become the property of the SBBC and the TOWN shall have the right to

remove all moveable (nonpermanent) facilities, and to further provide that the facility of any subtenant shall be treated under Section 8 with respect to reimbursement of real property.

14. If either party institutes suit or other proceeding against the other party to enforce or seek damages with respect to a default under this Lease Agreement, the prevailing party shall be entitled to recover all damages provided by law or under this Lease Agreement, including all costs and reasonable attorney's fees (including appeal). This Lease Agreement shall be governed by the laws of the State of Florida; venue shall be Broward County, Florida.

15. When any of the parties desire to give notice to the other, such notice must be in writing, sent by US Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of the paragraph. For the present, the parties designate the following as the respective places for giving notice.

To School Board: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a copy to: Edward J. Marko, Esq.  
School Board Attorney  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

To Town of Davie: Town Administrator  
6591 SW 45th Street  
Davie, Florida 33314

With a copy: Monroe D. Kiar, Esq.  
Town Attorney  
6191 SW 45th Street, Suite 6151A  
Davie, Florida 33314

To Boys Club of Broward County David T. Hughes  
Executive Director  
Boys Club of Broward County  
1401 N.E. 26<sup>th</sup> Street  
Fort Lauderdale, FL 33305

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed in their respective names by the proper officials and under their corporate seals this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Signed, sealed and delivered The School Board of Broward County, Florida  
in the presence of :

\_\_\_\_\_  
Franklin L. Till, Jr.,  
By: \_\_\_\_\_  
Lois Wexler, Chair

Superintendent of Schools

\_\_\_\_\_

(SEAL)

Attest: \_\_\_\_\_

Secretary

Approved as to form:

\_\_\_\_\_

Edward J. Marko, School Board Attorney

Signed, sealed and delivered

in the presence of :

\_\_\_\_\_

The Town of Davie, Florida

By: \_\_\_\_\_

Tom Truex, Mayor

\_\_\_\_\_

Attest: \_\_\_\_\_

Russell Muniz, Town Clerk

(SEAL)

Approved as to form:

\_\_\_\_\_

Monroe Kiar, Town Attorney

**BOUNDARY SURVEY & TOPOGRAPHY**

**LOCATION MAP**  
NOT TO SCALE

**SURVEY NOTES**

1. Elevations shown are based on National Geodetic Vertical Datum (N.G.V.D.).
2. The National Flood Insurance Map has designated this area as a Special Flood Hazard Area (SFHA) Zone AE on sheet on Community Map No. 120033 Panel C302 dated August 16, 1992 with no base flood elevation shown. Flood elevation is 10.0 feet above the N.G.V.D.
3. Reference Bench Mark is per Broward County benchmarks.
4. No. 3035, bearing on station of 7.215.
5. The survey was prepared by H. WINNINGHAM & FRADLEY, INC. South West of State 1, facing a bearing of 61°55'02" E.

**SURVEY ABBREVIATIONS**

CLF = CHAIN LINK FENCE  
C = CONCRETE  
L = LUMBER  
S = SAND  
P = PAVEMENT  
B = BRICK  
F = FLOOR  
E = ELEVATION  
P.O.B. = POINT OF BEGINNING  
P.O.C. = POINT OF COMMENCEMENT  
P.O.E. = POINT OF ENTRY  
P.O.F. = POINT OF FENCE  
P.O.G. = POINT OF GROUND  
P.O.H. = POINT OF HOLE  
P.O.I. = POINT OF INTERSECTION  
P.O.J. = POINT OF JUNCTION  
P.O.L. = POINT OF LATERAL  
P.O.M. = POINT OF MEASUREMENT  
P.O.N. = POINT OF NOTIFICATION  
P.O.O. = POINT OF OCCUPANCY  
P.O.P. = POINT OF PAVEMENT  
P.O.Q. = POINT OF QUANTITY  
P.O.R. = POINT OF RECORD  
P.O.S. = POINT OF SURVEY  
P.O.T. = POINT OF TOLERANCE  
P.O.U. = POINT OF UTILITY  
P.O.V. = POINT OF VIEW  
P.O.W. = POINT OF WORK  
P.O.X. = POINT OF EXTENSION  
P.O.Y. = POINT OF YIELD  
P.O.Z. = POINT OF ZONE

**NOTES**

NOTES: NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

**H. WINNINGHAM & FRADLEY, INC.**  
ENGINEERS-PLANNERS-SURVEYORS  
111 N.E. 44th STREET, OAKLAND PARK, FL 33054  
954-777-7440 FAX 954-777-0300

BY: \_\_\_\_\_  
LICENSED SURVEYOR AND MAPPER No. \_\_\_\_\_  
DATE: 7-31-03  
STAGE: 3  
PROJECT: 3001  
FINAL